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Letter dated 29 July 2005 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 23 February 2005 (S/2005/113). The Counter-Terrorism Committee has received the attached fifth report from Cyprus submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Ellen Margrethe **Løj**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

05-45762 (E) 250805

Annex

Letter dated 27 July 2005 from the Permanent Representative of Cyprus to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

Upon the instructions of my Government, I have the honour to transmit herewith the fifth report of the Republic of Cyprus to the Counter-Terrorism Committee (see enclosure).

I would like to take this opportunity to reiterate the great appreciation of the Government of the Republic of Cyprus for the close cooperation of the Counter-Terrorism Committee and to reaffirm our commitment to provide the Committee with any additional information that the Committee deems necessary or may request.

(*Signed*) Andreas D. **Mavroyiannis**

Enclosure

Fifth report on the implementation of Security Council resolution 1373 (2001)

Effectiveness in protection of economic and financial system

1. Implementation measures

1.1. Regarding the implementation of subparagraph 1 (b) and (d), the most recent report (see paragraph 1.2) makes reference to legislation intended to amend the law ratifying the International Convention for the Suppression of the Financing of Terrorism in order not to exclude citizens of Cyprus from the application of the Convention. The CTC would appreciate receiving updated information regarding the adoption of this law by the Parliament of Cyprus.

In addition to this measure, however, the CTC would like to emphasize that the effective implementation of subparagraph 1 (b) of the resolution requires a State to have in place measures specifically criminalizing the wilful provision or collection of funds by its nationals, or on its territory, by any means directly or indirectly, with the intention that the funds should be used, or in the knowledge that they are to be used to carry out a terrorist act. For an act to constitute an offence as described above, it is not necessary that the funds actually be used to carry out a terrorist offence (see article 2, paragraph 3, of the International Convention for the Suppression of the Financing of Terrorism). The acts that are to be criminalized are thus capable of being committed even if:

- The only terrorist act that takes place, or is intended to take place, is outside the country;
- No related terrorist act actually occurs, or is attempted;
- The funds are legal in origin.

As article 58 of the Criminal Code does not appear to be sufficient to fulfil the requirements of the resolution, the CTC would be grateful to be informed of the steps Cyprus will take in this regard.

1. Implementation measures

1.1. The amending bill of the Ratification Law of the International Convention for the Suppression of the Financing of Terrorism has been approved by the Council of Ministers and it is already before the Parliament for enactment. The relevant Parliamentary Committee is discussing the Bill, which is expected to be enacted before the summer vacations of the Parliament.

As far as the content of the rest of paragraph 1.1. in relation to article 58 of the Criminal Code is concerned, and in particular the alleged or interpreted lack of a legal provision to cover the instances prescribed in aforementioned paragraph, the following should be mentioned:

These instances are covered effectively with the implementing provisions of the Ratification Law of the International Convention for the Suppression of the

Financing of Terrorism (Law No. 29 (III) of 2001), and specifically, with section 4, which refers to *Article 2 of the Convention*.

Section 4 provides as follows:

"The offences referred to in article 2 of the Convention are punishable with imprisonment up to fifteen years or with a fine of one million Cyprus pounds or both such imprisonment and fine."

From the wording of the above-mentioned provision and the direct reference to article 2 of the Convention, it is clear that instances or acts mentioned in the said paragraph of the letter of the CTC are criminalized.

Furthermore, it is useful to mention again that section 8 of the above-mentioned Ratification Law provides that "Acts that constitute offences by virtue of article 2 of the Convention and section 4 of this Law or acts that constitute a violation of article 2 of the Convention, are considered, as predicate offences as if included in section 5 of the Prevention and Suppression of Money Laundering Activities Law ...".